Supreme Court, U. S.
FILED
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MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT

OF THE UNITED STATES

OCTOBER TERM 1973

73-222

RIBLET TRAMWAY COMPANY, a corporation,
Petitioner,
vs.
KENT D. SIMON,
Respondent.

No.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

To the Supreme Court of the State of Washington

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Spokane, Washington 99201

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Counsel for Respondent
KENT D. SIMON

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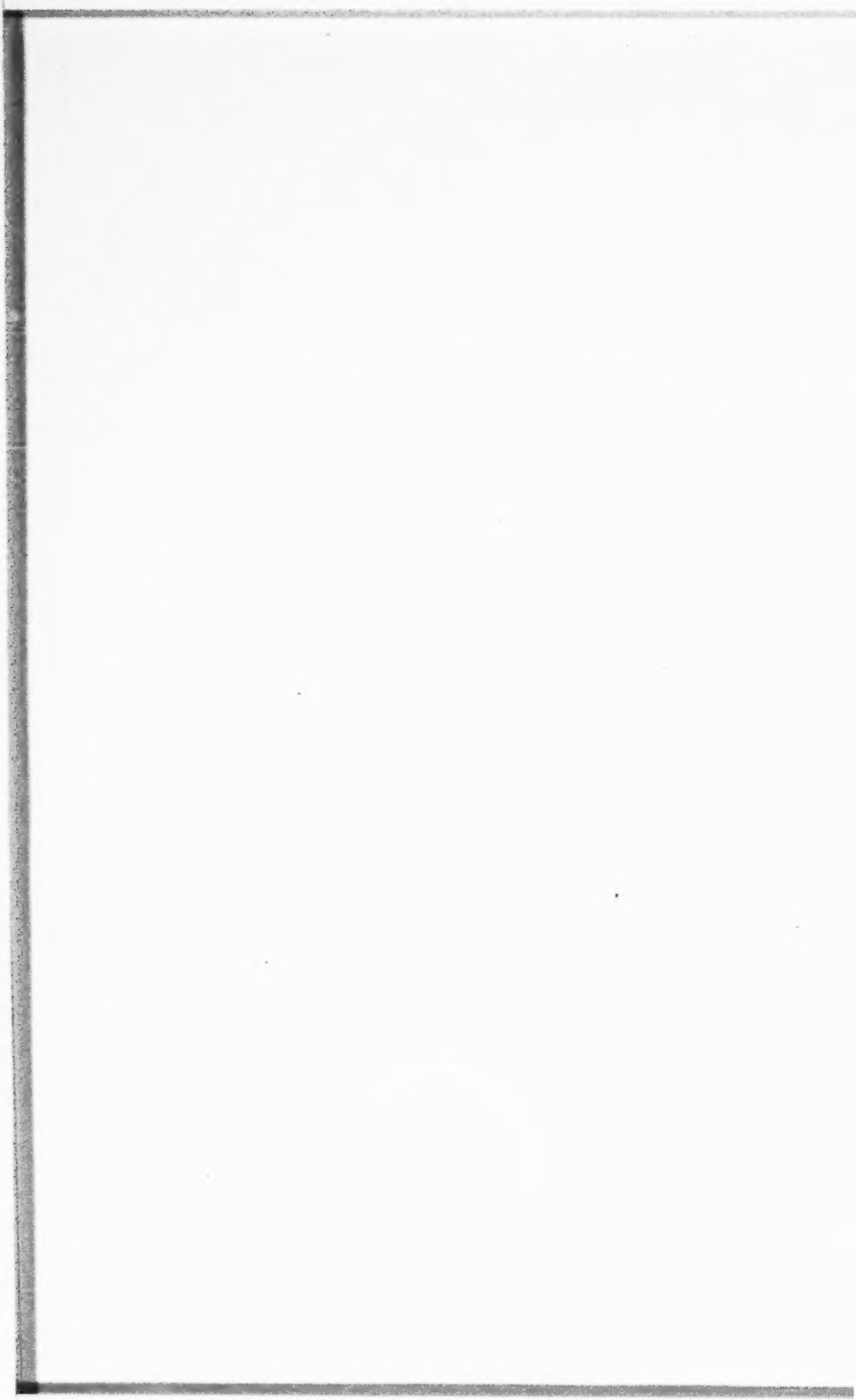

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BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

To the Supreme Court of the State of Washington

To the Honorable Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States.

The opinion of this case is cited as Simon vs. Riblet Tramway Company, 8 Wash. Appellate 289, 505 P.2nd 1291, Review denied, 82 Wash. 2nd., 1004, 505 P.2nd 1291 (1973).

QUESTION PRESENTED

This case presents no federal question of substance as required by Rule 19, Rules of the Supreme Court of the United States.

STATEMENT OF THE CASE

Kent D. Simon, the Respondent herein, had been employed by Riblet Tramway Company, the Petitioner herein, as an industrial engineer for ten years prior to voluntarily terminating his employment. During this period of time the employer paid to the Plaintiff, as well as to all its other employees, a substantial annual bonus. The bonus increased every year and ranged from

percent of gross compensation to

percent the last full year of employment.

Respondent brought suit in State Court

alleging that the annual payment was not a true discretionary bonus but was in fact a form of compensation for services rendered. The theory of the Respondent's law suit was contract by implication arising out of the conduct of the parties. The trial Court found in favor of the Respondent based on the reasoning of Powell vs. Republic Cresoting Company, 172 Wash. 155, 19 P. 2nd. 919 (1933). The Court of Appeals of the State of Washington affirmed, 8 Wash. Appellate 289, 505 P. 2nd 1291, and the Supreme Court of the State of Washington refused to consider the case on the Petitioner's Writ of Review, 82 Wash. 2nd 1004, 505 P. 2nd 1291 (1973).

The case involves a simple issue of basic contract law. It was decided on the basis of the existing case law of the State of Washington. The determination of the trial Court did not depend upon any federal or state statutes. No statutes, state or federal, are under attack from a constitutional standpoint.

The total amount of the judgment rendered in favor of the Respondent against the Petitioner was $2,500.00. There has been no limitation of or effect on interstate commerce.

The Petitioner had a full and fair trial before an impartial Court. The entire matter was reviewed by the Court of Appeals of the State of Washington and in that Court's opinion there was no mention of a constitutional issue. Petitioner requested that the Supreme Court of the State of Washington hear the matter and filed a detailed Petition stating the reasons therefore. That Petition was denied. There is nothing in the record to indicate that the Petitioner herein has suffered from a denial of due process of law or any other constitutional guarantee. There is no federal question of any nature in issue. The Supreme Court of the United States should not review this matter on a Writ of Certiorari. Such a Writ should be granted only when there is a special and important reason therefore.

Fay vs. Noia, 372 U. S. 391, 83 S. Ct. 822, 9 L. Ed. 837 (1963)

CONCLUSION

For the foregoing reasons, the Petition for a Writ of Certiorari should not be granted.

Respectfully submitted,

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